

## FIRST DAY.

(Continued.)

(Thursday, February 20, 1930.)

The House met at 9 o'clock a. m., and was called to order by Speaker Barron.

## COMMUNICATION FROM MRS. R. B. EWING.

The following communication was ordered printed in the Journal:

Franklin, Texas, February 19, 1930.

Hon. W. S. Barron, Austin, Texas.

Dear Mr. Barron: Mr. Ewing's continued illness will prevent him from attending the Fifth Special Session of the Legislature. Please have him excused. He is not so well as a month ago.

Sincerely yours,  
MRS. R. B. EWING.

## RELATIVE TO SENDING FLOWERS TO COL. N. R. STRONG AND HON. R. B. EWING.

On motion of Mr. Baldwin, the Speaker of the House was instructed to send messages of sympathy and flowers to Hon. R. B. Ewing and Col. N. R. Strong, who are ill at their homes.

## COMMUNICATION FROM HON. W. O. WILLIAMS.

The following communication was ordered printed in the Journal:

Honey Island, Texas, Feb. 19, 1930.

Hon. W. S. Barron, Austin, Texas.

Dear Mr. Barron: The doctor treating me does not think it advisable at this time for me to return to Austin today. But if my health permits I will go as soon as I am better.

Your friend,  
W. O. WILLIAMS.

Honey Island, Texas, Feb. 19, 1930.

Hon. W. S. Barron, House of Representatives.

Dear Sir: In reference to the physical condition of Representative W. O. Williams, I wish to advise that his stay in Austin for the last thirty days has caused him to grow weaker and has had an unfavorable effect on his condition. I wish to say also that it will be very unwise for him to return to Austin at this time.

Mr. Williams and his many friends will consider it a very great favor for you to excuse him from this session.

Very truly yours,  
R. A. TATE, M. D.

## LEAVES OF ABSENCE GRANTED.

The following members were granted leaves of absence on account of illness:

Mr. Albritton for this afternoon, tomorrow and the balance of the week, on motion of Speaker Barron.

Mr. McDonald for yesterday, today and the balance of the week, on motion of Speaker Barron.

Mr. Brooks for today, on motion of Speaker Barron.

Mr. Mosely for today, on motion of Mr. Barron.

## COMMITTEE OF THE WHOLE HOUSE.

On motion of Mr. Keller, the House, at 9:25 o'clock a. m., resolved itself into a Committee of the Whole House for the purpose of hearing impeachment charges against the State Comptroller.

(In Committee of the Whole House, Mr. Barron in the chair.)

## IN THE HOUSE.

(Mr. Barron in the chair.)

Mr. Barron, Chairman of the Committee of the Whole House, reported to the House that the Committee desired to rise, report progress and ask leave of the House to sit again at 4 o'clock p. m. today.

The House adopted the report.

Mr. Pope of Jones moved a call of the House for the purpose of maintaining a quorum until 5:30 o'clock p. m. today, and the call was duly ordered.

The Speaker then directed the Doorkeeper to close the main entrance to the Hall and instructed the Sergeant-at-Arms to lock all other doors leading from the Hall, and stated that no member would be permitted to leave the Hall without written permission from the Speaker.

On motion of Mr. Purl, the Sergeant-at-Arms was instructed to bring in absent members within the State of Texas who are not ill or who do not have sickness in the family, as shown by a certificate of a reputable physician.

Mr. Keller asked unanimous consent of the House that the roll of the House be called to ascertain the absent members.

There was no objection offered.

The roll was called, and the following members were present:

Mr. Speaker.	Magee.
Acker.	Mankin.
Ackerman.	Mauritz.
Adkins.	McCombs.
Allred.	McGill.
Avis.	Mehl.
Baker.	Metcalfe.
Barnett.	Minor.
Bond.	Moore.
Bounds.	Morse.
Bradley.	Murphy.
Brice.	Negley.
Carpenter.	Nicholson.
Chastain.	Olsen.
Coltrin.	Palmer.
Conway.	Petsch.
Cox of Lamar.	Pool.
Davis.	Pope of Jones.
DeWolfe.	Purl.
Duvall.	Renfro.
Enderby.	Richardson.
Eickenroht.	Rogers.
Finlay.	Rountree.
Forbes.	Sanders.
Gates.	Savage.
Giles.	Shelton.
Graves	Simmons.
of Williamson.	Sinks.
Graves of Erath.	Snelgrove.
Harman.	Speck.
Harper.	Stephens.
Harrison.	Stevenson.
Heaton.	Storey.
Hines.	Tarwater.
Holder.	Terrell.
Hubbard.	Thompson.
Jenkins.	Van Zandt.
Johnson	Waddell.
of Dallam.	Wallace.
Johnson of Smith.	Walters.
Johnson of Scurry.	Webb.
Jones.	West.
Justiss.	Williams
Keller.	of Sabine.
Kennedy.	Williams
Kincaid.	of Travis.
Lemens.	Woodruff.
Long of Wichita.	Young.
Loy.	

Absent.

Albritton.	Hardy.
Anderson.	Harding.
Baldwin.	Hefley.
Bateman.	Hogg.
Beck.	Hopkins.
Brooks.	Hornaday.
Cox of Limestone.	Johnson
Dunlap.	of Dimmit.
Ewing.	Kayton.
Farrar.	Keeton.
Finn.	Kemble.
Fuchs.	Kenyon.
Gilbert.	King.

Kinnear.	Quinn.
Land.	Ray.
Lee.	Reader.
Long of Houston.	Reid.
Marks.	Riley.
Martin.	Shaver.
Maynard.	Sherrill.
McDonald.	Strong.
McKean.	Tillotson.
Montgomery.	Turner.
Mosely.	Veatch.
Mullally.	Warwick.
O'Neill.	Westbrook.
Patterson.	Wiggs.
Pavlica.	Williams
Pope of Nueces.	of Hardin.
Prendergast.	

#### RELATIVE TO ABSENT MEMBERS.

Mr. Keller, Mr. McGill and Mr. Petsch made the following motion:

We move that the Speaker of the House of Representatives and the Sergeant-at-Arms of the House of Representatives be and are hereby directed to forthwith issue a warrant of arrest for all members absent from the House of Representatives, as evidenced by the roll call just had, and who are not sick and who are not absent by virtue of serious illness of near relatives, and that said warrant of arrest direct the officer making arrest to take charge of said members and deliver them at the bar of the House of Representatives at Austin, Texas, instantner.

And we further move that for the purpose of carrying out the above instructions the following warrant be adopted and issued by the hereinbefore named officers, towit:

#### "THE STATE OF TEXAS.

To any State Ranger and to the Sheriff or any Constable of..... County, State of Texas:

You are hereby commanded to forthwith arrest ....., a member of the Forty-first Legislature, who is absent from attendance upon the House of Representatives at Austin, Texas, and you are further commanded to forthwith deliver the hereinbefore named person to the bar of the House of Representatives at Austin, Texas.

The said hereinbefore named member is subject to arrest by virtue of his absence as aforesaid and because the House of Representatives has issued a call to compel his attendance upon the session of the Legislature. All of which is done under and by virtue of Section 10, Article 3, of the State Con-

stitution, and other provisions thereof, laws of this State and the rules of the House of Representatives.

Herein fail not, but make due return of this writ promptly.

Witness our official signatures at Austin, Texas, this the 20th day of February, 1930.

.....  
Speaker of the House of Representatives,  
Forty-first Legislature.

.....  
Sergeant-at-Arms, Forty-first Legislature,  
House of Representatives.

Attest:

.....  
Chief Clerk of the House.

And we further move that all expenses incidental to the carrying out of such warrants of arrest and the execution thereof be paid out of the contingent fund of the House of Representatives at the same rate as is provided by law for the execution of felony criminal process.

KELLER,  
McGILL,  
PETSCH.

Mr. DeWolfe moved that the House adjourn until 10 o'clock a. m. next Monday.

Mr. McGill raised a point of order on further consideration of the motion by Mr. DeWolfe on the ground that the House may only adjourn from day to day when there is not a quorum present.

The Speaker sustained the point of order.

Mr. Rountree moved that the House adjourn until 10 o'clock a. m. tomorrow.

Yeas and nays were demanded, and the motion was lost by the following vote:

Yeas—28.

Acker.	Hubbard.
Adkins.	Jones.
Allred.	Justiss.
Avis.	Metcalf.
Baker.	Nicholson.
Bateman.	Olsen.
Bounds.	Rountree.
Carpenter.	Sinks.
Conway.	Stephens.
DeWolfe.	Storey.
Enderby.	Thompson.
Eickenroht.	Williams
Farrar.	of Sabine.
Harman.	Young.
Harper.	

Nays—63.

Mr. Speaker. Ackerman.

Barnett.	McCombs.
Bradley.	McGill.
Brice.	Mehl.
Chastain.	Minor.
Coltrin.	Moore.
Cox of Lamar.	Morse.
Davis.	Murphy.
Duvall.	Negley.
Forbes.	Palmer.
Gates.	Petsch.
Giles.	Pool.
Graves	Pope of Jones.
of Williamson.	Purl.
Graves of Erath.	Renfro.
Harrison.	Richardson.
Heaton.	Rogers.
Hines.	Sanders.
Holder.	Savage.
Jenkins.	Shelton.
Johnson	Simmons.
of Dallam.	Snelgrove.
Johnson of Smith.	Speck.
Johnson of Scurry.	Tarwater.
Keller.	Terrell.
Kennedy.	Van Zandt.
Kincaid.	Waddell.
Lemens.	Wallace.
Long of Wichita.	Walters.
Loy.	Webb.
Magee.	West.
Mankin.	Williams
Mauritz.	of Travis.

Absent.

Albritton.	Long of Houston.
Anderson.	Marks.
Baldwin.	Maynard.
Beck.	McDonald.
Bond.	Montgomery.
Cox of Limestone.	O'Neill.
Dunlap.	Patterson.
Finn.	Pavlica.
Finlay.	Pope of Nueces.
Hardy.	Prendergast.
Harding.	Quinn.
Hopkins.	Ray.
Hornaday.	Shaver.
Johnson	Stevenson.
of Dimmit.	Turner.
Kayton.	Veatch.
Kenyon.	Westbrook.
Lee.	Woodruff.

Absent—Excused.

Brooks.	Martin.
Ewing.	McKean.
Fuchs.	Mosely.
Gilbert.	Mullally.
Hefley.	Reader.
Hogg.	Reid.
Keeton.	Riley.
Kemble.	Sherrill.
King.	Strong.
Kinnear.	Tillotson.
Land.	Warwick.

Wiggs.

Williams  
of Hardin.

Mr. Metcalfe offered the following amendment to the motion:

Amend motion to provide that the Speaker and Sergeant-at-Arms be instructed to wire or phone all absent members not ill to be here Monday or warrants will be issued requiring their presence.

Signed—DeWolfe, Metcalfe.

On motion of Mr. Petsch, the amendment was tabled.

Mr. Morse offered the following amendment to the motion:

Amend the motion, line 7, by adding following the word "relatives" the following, "or for other good reason."

Mr. Barnett moved the previous question on the pending amendment and the motion, and the main question was ordered.

Question first recurring on the amendment, it was lost.

Question then recurring on the motion by Mr. Keller et al., yeas and nays were demanded.

The motion was adopted by the following vote:

Yeas—47.

Acker.	Kennedy.
Ackerman.	Lemens.
Barnett.	Long of Wichita.
Bounds.	Loy.
Carpenter.	Magee.
Chastain.	Mankin.
Coltrin.	McCombs.
Conway.	Olsen.
Cox of Lamar.	Palmer.
Davis.	Petsch.
Enderby.	Pool.
Forbes.	Pope of Jones.
Gates.	Purl.
Gilbert.	Renfro.
Giles.	Richardson.
Graves.	Savage.
of Williamson.	Shelton.
Graves of Erath.	Snelgrove.
Hines.	Tarwater.
Holder.	Van Zandt.
Jenkins.	Waddell.
Johnson.	Webb.
of Dallam.	West.
Johnson of Scurry.	Williams
Keller.	of Travis.

Nays—42.

Adkins.	Brice.
Allred.	DeWolfe.
Avis.	Duvall.
Baker.	Eickenroht.
Bateman.	Farrar.
Bradley.	Harman.

Harper.  
Harrison.  
Heaton.  
Hubbard.  
Johnson of Smith.  
Jones.  
Justiss.  
Kincaid.  
Maynard.  
Mehl.  
Metcalfe.  
Minor.  
Moore.  
Morse.  
Nicholson.  
Ray.

Rogers.  
Rountree.  
Sanders.  
Simmons.  
Sinks.  
Speck.  
Stevenson.  
Storey.  
Terrell.  
Thompson.  
Walters.  
Williams  
of Sabine.  
Woodruff.  
Young.

Present—Not Voting.

Mauritz.  
McGill.

Murphy.  
Stephens.

Absent.

Albritton.	Lee.
Anderson.	Long of Houston.
Baldwin.	Marks.
Beck.	McDonald.
Bond.	McKean.
Cox of Limestone.	Montgomery.
Dunlap.	Negley.
Finn.	O'Neill.
Finlay.	Patterson.
Hardy.	Pavlica.
Harding.	Pope of Nueces.
Hopkins.	Prendergast.
Hornaday.	Quinn.
Johnson	Shaver.
of Dimmit.	Turner.
Kayton.	Veatch.
Kenyon.	Westbrook.

Absent—Excused.

Brooks.	Mullally.
Ewing.	Reader.
Fuchs.	Reid.
Hefley.	Riley.
Hogg.	Sherrill.
Keeton.	Strong.
Kemble.	Tillotson.
King.	Wallace.
Kinnear.	Warwick.
Land.	Wiggs.
Martin.	Williams
Mosely.	of Hardin.

Mr. Barnett moved to reconsider the vote by which the motion was adopted, and to table the motion to reconsider.

The motion to table prevailed.

Reason for Not Voting.

Reason for registering present and not voting on privilege motion by Mr. Keller, Mr. McGill and Mr. Petsch compelling attendance of absent members:

"I registered present and not voting on the above motion for the following reason: My name appears on the above motion because, in response to a motion offered by Mr. Keller, and adopted by the House, the Speaker appointed me, together with Mr. Keller and Mr. Petsch, as a committee to prepare a motion in legal form compelling the attendance of absent members. I performed this service and my name was added to the above motion. As a member of this committee I feel that, being one of the counsel representing the House in the presentation of the charges against Mr. Terrell, that I should take no part in compelling the attendance of absent members who will compose a part of the Committee of the Whole charged with the duty of hearing the evidence presented in support of the charges. In other words, an attorney should take no part in the constitution or organization of the court before whom he is to try his case.

McGILL.

#### LEAVES OF ABSENCE GRANTED.

On motion of Mr. Purl, by unanimous consent, Mr. Finn was granted leave of absence.

Mr. DeWolfe, by unanimous consent, was granted leave of absence.

Mr. Baker, by unanimous consent, was granted leave of absence.

#### ADJOURNMENT.

On motion of Mr. Sanders, the House, at 6 o'clock p. m., adjourned until 10 o'clock a. m. tomorrow.

#### APPENDIX.

#### PROCEEDINGS IN INVESTIGATION OF CHARGES FILED AGAINST S. H. TERRELL, COMPTROLLER.

(Thursday, February 13, 1930.)

In the matter of the investigation of charges preferred against S. H. Terrell, Comptroller, the following proceedings were had in the House of Representatives of the State of Texas, beginning at 10:15 a. m. on February 13, A. D. 1930, to-wit:

#### House Simple Resolution.

By McGill.

Whereas, The House by simple resolution authorized the Speaker to advertise for bids for court reporters to take

down the proceedings in the matter of the charges against S. H. Terrell, Comptroller, and in response to such advertisements H. D. Mahaffey has submitted a bid proposing to furnish six copies of the testimony, one original and five carbons, on 8½x11 pages, at \$1.25 per page, the transcript of such testimony to be furnished within twenty-four hours after the close of such testimony at each sitting of the committee. Three reporters would be required at a per diem of \$7.50 per day to take down such testimony and furnish it within the above specified time, it being understood that for any day or days in which no testimony is taken such per diem fee for said reporter shall not be allowed; and Whereas, It is believed that said bid is the lowest and most satisfactory of those submitted; now, therefore be it

Resolved by the House of Representatives, That said bid of H. D. Mahaffey be and the same is hereby accepted, and the Speaker be and is hereby authorized to enter into a contract of employment with the said H. D. Mahaffey in accordance with the terms of said bid.

The foregoing resolution was adopted by viva voce vote.

Thereupon, at 10:20 a. m., Mr. Johnson of Dimmit moved that the House resolve itself into a Committee of the Whole for the purpose of considering the charges filed against S. H. Terrell, Comptroller, and thereafter the following charges initiating impeachment proceedings against S. H. Terrell, Comptroller, were offered and the reading thereof before the House at this time was dispensed with and filed:

Charges Initiating Impeachment Proceedings, House of Representatives, S. H. Terrell, Comptroller.

State of Texas,  
County of Travis.

We, Joseph McGill, Alfred Petsch and Coke R. Stevenson, members of the House of Representatives of the Fourth Called Session of the Forty-first Legislature, do hereby present the following charges against S. H. Terrell, State Comptroller, and request the consideration of said charges, so that the House of Representatives may decide whether or not, in their judgment, they should present to the Senate of Texas bills of impeachment against said S. H. Terrell, Comptroller. These charges are based upon information and belief founded upon the reports of the State Auditor, Moore Lynn, heretofore filed with the Legislature of the State of Texas and

now on file with said body. And we do each represent under our oath that we believe the charges made in said reports to be true, and for such reasons we present them to the House of Representatives for consideration as aforesaid:

1.

That S. H. Terrell, while Comptroller of the State of Texas, during the present and prior terms of office, has violated Article 4344, Revised Civil Statutes of 1925, Sections 5, 6, 9 and 18, which, respectively, provide: The manner of keeping all State accounts; requiring uniformity of accounts; the keeping and settling of all accounts of the State by the Comptroller; the keeping and preserving of all materials, records, books and papers. And in connection with the aforesaid, the State Comptroller is specifically charged with having heretofore destroyed the records of his certain accounts entitled "S. H. Terrell, Comptroller, Special," heretofore kept in the Texas Bank and Trust Company and the Austin National Bank, both of Austin, Texas, and with the destruction of other bank records of accounts of State funds, which the said Comptroller has heretofore had and which are evidence of deposits and the withdrawal of State funds from other banks than those heretofore named.

2.

That the said S. H. Terrell, while Comptroller of Public Accounts, during the present and prior terms of office, has violated Article 4345, Revised Civil Statutes of 1925, in that he has continuously during said time, with the exception of one month, passed the accounts of the Comptroller to the State Treasurer for payment without having said accounts first approved by the Secretary of State, as provided by law.

3.

That the said S. H. Terrell, while Comptroller of Public Accounts, during his present and prior terms of office has violated Article 4348, R. C. S., 1925, in that he has not kept an account of the payments out of the various local funds of the State departments and institutions, and receipts thereto, and that has statement to the Governor has never included the complete record of public revenues and expenditures during the preceding year, or estimates of same for the ensuing year.

4.

That the said S. H. Terrell while Comptroller of Public Accounts, during his present and prior terms of office, has violated Article 4357, R. C. S., 1925, in that he has failed to keep an alphabetical list of claims, as provided by law.

5.

That the said S. H. Terrell, while Comptroller of Public Accounts, during his present and prior terms of office, has violated Article 4363, R. C. S., 1925, in that he has failed to keep a record of all State owned bonds and has further failed to reconcile said accounts with similar accounts required to be kept by the State Treasurer, and further that he has made no quarterly balances.

6.

That the said S. H. Terrell, while Comptroller of Public Accounts, during his present and prior terms of office, has violated Article 4364, R. C. S., 1925, Section 3, in that he has not kept control accounts for tax collectors covering current and delinquent taxes; and has further violated Section 4 of said article in that he has not kept accounts for all moneys and securities held by the State Treasurer, and neither has he kept a record of accounts with heads of departments for all moneys received by them and not deposited in the Treasury.

7.

That the said S. H. Terrell, while Comptroller of Public Accounts, during his present and prior terms of office, has violated Article 4366, R. C. S., 1925, in the following respects: (1) In that he has failed to examine the Treasurer's disbursements; (2) in that he has failed to cancel warrants to prevent future circulation; (3) in that he has failed to supervise receipts and deposits of the Treasurer; (4) in that he had not checked the balance of money on hand in the State Treasury.

8.

That the said S. H. Terrell while Comptroller of Public Accounts, has permitted, encouraged, assisted, and has been benefited by the organization of a delinquent tax collection agency (apparently incorporated as an abstract company) under the name of the Texas Tax Record Company for the purpose of col-

lecting State and county delinquent taxes upon a commission compensation; that said corporation was originally and now is composed of employees and former employees of the department and that one of the original incorporators and present stockholders of said corporation is Mrs. Gladys Terrell, the wife of the Comptroller; that the organization of said corporation was perfected on or about the 18th day of December, 1928, and has continued up to this time; that the Comptroller and members of his department solicited business for said corporation, thereby misusing this high public office in fostering and advancing private business; that by means of organization and operation of said corporation the Comptroller directly or indirectly benefited from the profits accruing from the collection of State taxes; thereby indirectly increasing the emoluments of his office; that such organization and operation in connection with, and in close cooperation with the Comptroller's Department, as aforesaid, is contrary to public policy and constitutes conduct unbecoming to a public official.

In connection with the aforesaid, it is alleged that said company, shortly after its organization, secured a contract to collect the "county" taxes of San Patricio county; that on or about April 8, 1929, upon advice of the Comptroller, personally, to the tax collector and/or the commissioners' court of said county, said contract was amended to include the payment of a commission on "State" taxes; and, further, that the Comptroller advised the tax collector of said county to deduct and take credit for the amounts of the commission which would have been earned upon the collection of the State taxes by said company, prior to April 8, if said company had, in fact, had a contract whereby they were entitled to a commission for the collection of State taxes, and the Comptroller directed said tax collector to deduct and take credit of such amounts on said tax collector's report for April, 1929, and thereby the Comptroller allowed commissions on the collection of State taxes without a pre-existing contract for same, in violation of the State Constitution.

And it is further alleged that, on or about December 9, 1929, the commissioners court of San Patricio county, upon the advice or with the knowledge and consent of the State Comptroller further supplemented its contract with said Texas Tax Record Company by permitting a payment to said company of a commission of 12½ per cent as compensa-

tion for services rendered and to be rendered in the nature of "charging off" all items of delinquent taxes which, in the judgment of said company, were not collectible and for which it issued "cancellation certificates," and which conduct was in violation of law.

## 9.

That between the 29th day of September, 1925, and the 24th day of February, 1926, both days included, there was deposited in the Comptroller's Department by the Magnolia Petroleum Company, a fund to be held in escrow in the amount of \$6312.74, the same being money paid as gasoline taxes then thought to be due and payable to the State of Texas; that thereafter the law was declared to be to the effect that said money was the property of said company; that by virtue of said fact it became the obligation of the Comptroller to return the money to the company; that upon investigation of this account by the State Auditor, the Comptroller admitted, first, that the money had not been returned to the company; and, secondly, that the same had not been deposited in the State Treasury; and thereupon said Comptroller refused to divulge what had been done with said money; that the facts show that said funds have been appropriated to the use and benefit of S. H. Terrell, Comptroller, and it is hereby charged that said S. H. Terrell, Comptroller, did use said funds in whole or in part for his personal use and benefit.

## 10.

That S. H. Terrell, Comptroller, did heretofore on the dates hereinafter set out fraudulently misapply and fraudulently convert to his own use and benefit the hereinafter named respective amounts out of State funds deposited in the Austin National Bank, to-wit:

May 1, 1929.....	\$ 38.15
May 10, 1929.....	80.95
May 10, 1929.....	28.85
May 10, 1929.....	100.00
May 10, 1929.....	372.00
May 21, 1929.....	50.00
June 5, 1929.....	100.00
June 22, 1929.....	35.00
July 3, 1929.....	65.00
July 3, 1929.....	60.61
July 5, 1929.....	100.00
July 9, 1929.....	10.00
August 6, 1929.....	105.00
August 6, 1929.....	100.00
August 8, 1929.....	21.00
August 26, 1929.....	20.00

August 27, 1929.....	49.27
September 11, 1929.....	50.00
September 16, 1929.....	13.72
September 16, 1929.....	14.83
September 19, 1929.....	100.00
September 21, 1929.....	212.50
October 9, 1929.....	100.00
November 12, 1929.....	32.93
November 14, 1929.....	416.00
November 14, 1929.....	100.00
November 20, 1929.....	25.00
December 14, 1929.....	100.00
December 18, 1929.....	20.00
December 18, 1929.....	25.48
December 26, 1929.....	40.00
January 7, 1930.....	69.64
January 8, 1930.....	563.38

## 11.

That S. H. Terrell, Comptroller, did heretofore on the dates hereinafter set out fraudulently misapply and fraudulently convert to his own use and benefit the hereinafter named respective amounts out of State funds deposited in the Texas Bank and Trust Company, to-wit:

April 4, 1927.....	\$ 15.85
April 4, 1927.....	15.80
April 4, 1927.....	30.72
April 4, 1927.....	30.17
April 4, 1927.....	11.85
August 31, 1927.....	50.00
November 21, 1927.....	25.00
December 6, 1927.....	100.00
December 6, 1927.....	50.00
December 6, 1927.....	30.00
February 21, 1928.....	36.53
June 16, 1928.....	42.00
July 8, 1928.....	13.00
July 11, 1928.....	36.50
November 15, 1928.....	50.00
November 22, 1928.....	23.80
November 22, 1928.....	11.14
November 22, 1928.....	59.45
February 5, 1929.....	51.70
February 5, 1929.....	30.90

## 12.

That the said S. H. Terrell, while Comptroller, did heretofore fraudulently take, misapply and convert to his own use the sum of \$2689.14, the same being State funds by him collected upon accounts due the State of Texas and by him deposited in the Texas Bank and Trust Company.

## 13.

That the said S. H. Terrell, while Comptroller, did heretofore receive the sum of \$2689.14 deposited by him in the Texas Bank and Trust Company under

the account of "S. H. Terrell, Comptroller, Special," and did in violation of law fail and refuse to account for same.

## 14.

That the said S. H. Terrell, while Comptroller, did heretofore fraudulently misapply certain State funds by him collected upon accounts due the State of Texas and by him deposited in the Austin National Bank, the exact amounts and items so misapplied being, at this time, to affiants unknown, in the following manner, to-wit:

That the said S. H. Terrell, while Comptroller of the State of Texas, collected the sum of \$54,364.55 of State funds, upon accounts due the State of Texas, and deposited same in the Austin National Bank in a special account designated "S. H. Terrell, Comptroller, Special"; that all of said State funds so deposited in said special account have been withdrawn from said bank by the Comptroller; that he has destroyed the records of said account; that he has used at least a portion of said fund for personal use, as hereinbefore set out, and that the remainder of said funds are not accounted for in any manner by the said Comptroller.

## 15.

That the said S. H. Terrell, while Comptroller, did heretofore receive the sum of \$54,364.55, deposited by him in the Austin National Bank under the account of "S. H. Terrell, Comptroller, Special," and did in violation of law fail and refuse to account for same.

## 16.

That S. H. Terrell, as Comptroller, after receiving on or about March 20, 1926, the sum of \$4195.86, as an inheritance tax due the State of Texas for the account of the beneficiaries of the estate of William O. Allison, did fraudulently misapply the same to his own use, and did secrete the same with the fraudulent intent to misapply the same.

## 17.

That S. H. Terrell, as Comptroller, after receiving on or about January 19, 1926, the sum of \$1362.67, as an inheritance tax due the State of Texas for the account of the beneficiaries of the estate of M. E. Griffith, did fraudulently misapply the same to his own use, and did secrete the same with the intent to fraudulently misapply the same.

18.

We charge that the said S. H. Terrell is incompetent, inefficient and unfit to hold the office of Comptroller and should be removed from office as shown by his conduct during the present and prior terms of office, in that he violated Article 4344, Sections 5, 6, 9 and 18; Article 4345, Article 4348, Article 4357, Article 4363, Article 4364, Article 4366, Revised Civil Statutes of Texas, 1925; and that he has fraudulently taken, misapplied and converted to his own use the trust fund in the amount of \$6312.74, hereinbefore mentioned and set out as the property of the Magnolia Petroleum Company; and that he has been guilty of misapplication of the following inheritance tax funds, to-wit: the taxes received for the account of the beneficiaries of the William O. Allison estate in the amount of \$4195.86, and the amount of \$1362.67 inheritance taxes received for and on account of the beneficiaries of the Griffith estate, as both of said estates and receipt of said money has been hereinbefore described; and that he has misapplied the moneys deposited in the account of the Texas Bank and Trust Company and the Austin National Bank in the amounts hereinbefore set out; and that he had organized, permitted, encouraged and participated in the organization of a delinquent tax collection agency, for his benefit, as hereinbefore set out; and that he has been guilty throughout his tenure in office of gross carelessness and inefficiency in the management and operation of his office, and has conducted same in violation and disregard of many laws of this State.

JOSEPH MCGILL,  
ALFRED PETSCH,  
COKE R. STEVENSON.

The State of Texas,  
County of Travis.

On this day personally appeared before me, the undersigned authority, Joseph McGill, Alfred Petsch and Coke R. Stevenson, and being by me duly sworn depose and say that they are the persons mentioned in the foregoing instrument, and that they are members of the House of Representatives of the Forty-first Legislature of Texas; that they have read the foregoing charges, and that wherever the statements are made therein as of their own knowledge they are

true, and that all of those made are believed to be true.

JOSEPH MCGILL,  
ALFRED PETSCH,  
COKE R. STEVENSON.

Subscribed and sworn to before me this the 10th day of February, A. D. 1930.

BESS ODELL BEEMAN,  
Notary Public in and for Travis County,  
Texas.  
(L. S.)

Thereupon, Hon. T. H. McGregor addressed the Chairman as follows:

Mr. Chairman: When this hearing shall have assumed its regular course, General Keeling and myself will appear as counsel for the respondent.

The Chairman: All of these matters will be decided by the Committee, and if you will do so, please come to the microphone and address your remarks to the Committee.

Senator McGregor: Mr. Chairman, and gentlemen of the Committee:

I am more concerned about what I think than I am about this machine. When this proceeding shall have assumed its regular course, General W. A. Keeling and myself will appear as counsel for the respondent. I make that statement now because your Chairman suggests that if we decide to discuss some of the charges at this time that we indicate to him that fact. In order to make it authoritative, I have this statement to make as speaking for Mr. Terrell.

We will waive the reading of the charges at this time with the understanding that in doing so, we will waive none of the legal rights or privileges incident to this hearing. Having made that statement, it is now proper for me to state to this Committee that we have no disposition to unnecessarily delay this hearing. On the other hand, we would not feel justified in sacrificing the rights of him whom we represent to expedition this, and would request that we be accorded time commensurate with the importance of the hearing into which we are about to go.

These charges were preferred on Tuesday of this week—less than two days, exclusive of parts of days, from now. I make that observation in order to avoid any precedent to justify you in not crowding us into this hearing with improper expedition, because the criminal

statutes of this State accords to any man charged with any felony at least two days in which to respond to any accusation made against him.

These charges embrace thousands of documents, hundreds of thousands of accounts and millions of dollars. Anticipating the making of the charges enumerated in the report of the State Auditor, on last Saturday a week ago, in order that the matter might be handled with proper expedition, Mr. Terrell employed public accountants to audit the accounts of his department. They have been industriously and assiduously engaged in that duty since their employment; they have reported to us from time to time that they have cleared numbers of items that are involved in the incriminations made in the report of the State Auditor, but at this time, the auditors employed by Mr. Terrell have not finished their report. He tells us that he will be able to furnish it finished by Saturday. Now, it ought to be apparent to the mind of the layman that, I am justified in saying, with the audit which the State has made as a predicate for the charges against the Comptroller, to await the finished report of the auditor whom Mr. Terrell has employed, notwithstanding the extraordinary diligence on the part of Mr. Terrell in seeking to prepare a proper audit of that great department of this great State, it ought not to be considered as an effort to delay the matter that you give us until Saturday in which to prepare our answer and develop the facts.

Some of you are familiar with the audit made by the State Auditor, and to give verity to the statement which I make, reading from a partial and unfinished audit which Mr. Phillips has made for Mr. Terrell, we will demonstrate to you by documentary evidence that the account in the Texas Bank & Trust Company was closed by Mr. Terrell in the due order of business and the item which is charged against him in connection with that was received and receipted for by the proper parties and officers of the State. We will not only bring you the checks that show the disbursement of that money, and who got it, but we will bring you the cancelled and receipted warrant from the Treasurer's office showing a legal, legitimate and proper disbursement of that fund that is charged against this respondent.

In addition to that, we have cleared another item of \$1912.50 that is charged to the personal account of this respondent and will show a proper disbursement

of that amount; there are other items which will be similarly cleared to show that absolutely nothing and none of the complaints of irregularities made by the Auditor that this respondent is responsible for them.

Now then, with this statement, I submit that it would not only be proper but would be imminently fair for this Committee to give us the additional time in which to prepare to meet these charges which these distinguished gentlemen, justified probably, by the Auditor's partial audit submitted to them, against the Comptroller. There is more involved in this than the good name of the respondent; it is more than his liberty which may be involved—it is the honor and integrity of the great State of Texas that is involved. All we want is forty-eight hours when we will be ready, with our witnesses and our records, to meet these charges. We are working just as hard and as long as you are and are just as anxious to go ahead with this investigation.

The Chair: Mr. McGregor, if the attorneys will agree until Saturday, will that meet your pleasure?

Mr. McGregor: The auditor now working for Mr. Terrell tells us that his report will be ready Saturday.

A Member: I move that the Committee rise, report progress—

Mr. Keller: Senator McGregor, you say the auditor's report will be ready on Saturday at—will it be ready at noon Saturday?

Mr. McGregor: He has assured us that it would be ready—that he would have it ready by Saturday—we will get it as soon as it is ready—

Mr. Keller: I move that the Committee rise, report progress and ask leave of the House to sit again Saturday at noon—at 2 o'clock—

The Chair: The gentleman from Dallas moves that the Committee rise, report progress and ask leave of the House to sit again at 2 o'clock Saturday—

Mr. Johnson: I move that the Committee rise, report progress, and ask leave of the House to sit at 10 o'clock Monday morning?

The Chair: Mr. Johnson moves that the Committee rise, report progress and ask leave of the House to sit again at 10 o'clock Monday—

Mr. Johnson:—

The Chair: Does the gentleman withdraw his motion—

Mr. Petsch: I just want to ask a question before we recess—I want to ask Senator McGregor if as portions of this audit are finished from time to time if

we will be furnished copies of it—I make this statement in view of the fact that you have just stated that one item, in the case of the Texas Bank & Trust Company item, that that has been cleared, and I would like to ask if you, if as the audit is completed and items are cleared up, if you will furnish us with portions of the auditor's report at that time?

Senator McGregor: Mr. Petsch, you understand, of course, that no audit is a complete audit until it is finished. I have simply indicated an isolated item. We think that we will have the audit not later than Saturday—

The Chair: And at that time it would be furnished to counsel for the House?

Mr. Petsch: Mr. Chairman, I think these charges that the House is handling are specific, and definite information could be given on them. It is a known fact that this auditor has been at work for a considerable portion of the time, and it is a well known fact, Mr. Terrell has had a lawyer employed for a considerable portion of the time, and it is a well known fact that the charges made by Mr. Lynn are definite, that they refer to and charge specific and definite accounts and definite sums of money are involved and the accounts affected described, and Senator McGregor has made the statement that in this one particular instance of the account at the Texas Bank & Trust Company that the auditor employed by Mr. Terrell has audited that account and they are in possession of record facts which would dispose of that and absolutely clear that matter up as far as that item is concerned, and if he has such information we would like to have that so as to dispose of that, if the information that he has will explain that. He has made the statement here on the floor of the House that that one item has been cleared up and has proper receipts to show for it—

Mr. Keller: Mr. Chairman—

The Chair: Mr. Keller, of Dallas—

Mr. Keller: —No person of this State shall ever be made to give testimony against himself—I understand that Mr. Terrell has employed an auditor and is having the accounts of his department audited, and I do not think it is proper to ask Mr. Terrell to give to the State any information that the State is not entitled to under the Constitution—because the Constitution—

The Chair: Gentlemen, let me make this statement: The proposition with reference to furnishing this information was proffered by Senator McGregor—as I understand it, Senator McGregor has stated that when this audit is completed

copies of the audit will be furnished to the attorneys representing the House.

Senator McGregor: I will state that the auditor's report, when finished, will be furnished to the opposing counsel, but not a partial audit. I made the statement here that a partial audit had cleared the item in the Texas Bank & Trust Company which was charged to Mr. Terrell and five salary items in connection with that, but I would decline to furnish a partial audit, because a partial audit is not an audit.

Mr. Petsch: I think that the House is inclined to let the counsel for respondent get the information and to meet their pleasure on that—

Mr. Van Zandt: Mr. Petsch, I believe that the facts set out in the statement made by Senator McGregor to be that they have been able to clear certain items in connection with that particular charge. Now, if that be true, and assuming that it is correct, why is it that we can not get that much of the charges over the wheel at this time?

Mr. Petsch: That is just exactly it. The Managers of this House are in this attitude only. They want to present the facts that are material to the issues in these charges and none other and any data or information that will clarify any of these items contained in the charges will be just that much that can be passed upon as immaterial and cleared up. As I stated awhile ago these charges are specific and give the dates and amounts of the various items involved, and if these items can be cleared up by furnishing to the Managers of the House that information, as they are uncovered, it will eliminate unnecessary and needless work on the part of the attorneys for Mr. Terrell and for the Managers of the House and the members of the House. I ask as a matter of saving time both for the respondent and for the House that we be furnished with such information as will clarify these matters as rapidly as it is available, with the view of the expeditious handling of this investigation. Now, of course, an audit is never complete until it is finished. But if we can get the information that will justify it, we want to throw the dead wood off the wagon. I just wanted to make this statement, that the Managers of the House would like to have this information from the auditor of the respondent as fast as it is completed.

Mr. Beck: Mr. Petsch, what would be the effect upon this proceeding if it should develop that there was no quorum in the House at any time?

Mr. Petsch: I am not prepared to say, except that it is just my impression—

The Chair: We had that before, Mr. Beck, and if the question was raised that no quorum was present, it would stop the proceedings.

Mr. Keller: May I ask this—to have a quorum of the Committee of the Whole, would not it require the same number that it would require for a quorum of the House?

The Chair: We went into that before this, and decided that a quorum of the Committee of the Whole is a quorum of the House.

Mr. Keller: I was not aware of that ruling. One hundred members would have to be present to make a quorum of the Committee of the Whole.

Mr. Keeling: There is a short observation that I would like to make—

The Chair: Will the gentleman yield to the Gentleman from Dawson?

Mr. Keeling: Yes, sir.

The Gentleman from Dawson: Mr. Petsch, I would like to inquire if the three Managers for the House are ready to go ahead now with this investigation?

Mr. Petsch: Yes, sir, we are ready.

Q. Then, if you are ready, why cannot you go ahead and if at the end of the day there is need for further time the delay could come then?

Mr. Petsch: The only reason I can see is that there are some matters that we would want to go into and get the witnesses lined up in proper order to properly produce the testimony. As I stated before, in order to expedite those matters, we ought to be entitled to the copies of the auditor's report of Mr. Terrell's department as fast as it is completed. Then we could make the comparisons with what our information shows and find out the facts, but as far as that is concerned, we are ready to go ahead with this now.

Mr. Keeling: Gentlemen of the Committee: There is much more involved in this proceeding than the mere question of introducing fragments of testimony. The respondent at this time is not ready to answer the charges, and he is entitled to a complete audit of his department before you require him, under oath, to answer these charges. It is simply a question of justice to him that he may proceed correctly in this matter. If you go into this hearing, now, he must file an answer maybe different from the answer he would file, and from the answer we will file when the Auditor has completed his audit. This question

of fragmentary reports has already been discussed. The State Auditor has made his report embodying certain charges, and those charges are now before this House. This respondent should not be required to furnish fragments of his Auditor's report when the State Auditor's report is full and complete—he has employed auditors on his own account for his own protection. You have the State's Auditor's report, and he does not bother us with fragmentary parts of it, and you ought not to bother us for fragmentary parts of the auditor's report being made up for the respondent. When the report of the respondent's auditor is complete, it will be available.

Mr. Stevenson: Mr. Chairman, let me make a little statement, which will clarify the situation. In the first place, the attorneys for the House are ready to proceed. We have our case mapped out. We have it well in hand. In all of my practice of law I have always found counsel on the opposing side to be willing to treat fair with me. I think, in this case, that both of the distinguished counsel for the respondent will give us every bit of the information we are entitled to.

Therefore, I think there is nothing further to be gained by this discussion. These people are entitled to some consideration. I want it to be known now that I have every confidence that these gentlemen will furnish us with all they think we are entitled to.

Then there is another point which I wish to call attention to in connection with the charges that have been preferred by the House. If the respondent and his attorneys should present the attorneys for the House with a fragmentary or partial audit, as one of the attorneys for the House, I might be convinced that the partial audit cleared up that particular item it covered, and it might produce an entirely different effect with someone else, and the Committee might not think that it had cleared that item up. I believe that we ought to go ahead and continue this hearing until next week. Whatever the Committee wants to do will be satisfactory to the managers.

Mr. Purl: Mr. Speaker, I understand that there are several witnesses here from Dallas. There is quite an expense on these men to come down here and stay around, leaving their business, and I would like to know what is going to be done about them. There may be some of them who would want to go back home.

The Chair: All witnesses are excused until 9 o'clock next Monday morning.

Mr. Johnson: The Committee has not as yet voted to extend the time until then—

Whereupon, on motion of Mr. Johnson of Dimmit that the Committee rise and report progress and ask leave of the House to recess until 9 o'clock next Monday morning, the question was taken and the motion prevailed by a vote of 76 yeas, 34 nays and 5 present and not voting.

## SECOND DAY.

(Friday, February 21, 1930.)

The House met at 10 o'clock a. m., pursuant to adjournment, and was called to order by Speaker Barron.

The roll was called and developed the fact that there was not a quorum present.

Mr. DeWolfe moved a call of the House for the purpose of securing a quorum, and the call was duly ordered.

The Speaker then directed the Doorkeeper to close the main entrance to the Hall and instructed the Sergeant-at-Arms to lock all other doors leading from the Hall, and stated that no member would be permitted to leave the Hall without written permission from the Speaker.

On motion of Mr. DeWolfe, the Sergeant-at-Arms was instructed to bring in all absent members within the State who are not ill or have serious sickness in their family.

## LEAVES OF ABSENCE GRANTED.

On motion of Mr. Young, by unanimous consent, Mr. Turner was granted leave of absence for today.

On motion of Mr. Purl, by unanimous consent, Mr. Speck was granted leave of absence for today.

## REPORT OF SPEAKER BARRON IN REGARD TO ABSENT MEMBERS.

The Speaker laid before the House and had read the following report:

The following are the absentees from the House of Representatives who were sent messages by wire and telephone, where it was possible to reach them:

Frank Baldwin.  
Walter H. Beck.  
Thos. R. Bond.  
J. T. Cox.  
E. D. Dunlap.  
James Finlay.

R. A. Fuchs.  
Bailey W. Hardy.  
A. E. Harding.  
Mike Hogg.  
A. P. Johnson of Dimmit.  
Harold Kayton.  
W. F. Keeton.  
Geo. C. Kemble.  
L. M. Kenyon.  
A. H. King.  
J. W. Kinnear.  
C. Land.  
G. Y. Lee.  
Jno. A. Long.  
F. H. Marks.  
Frank W. Martin.  
W. R. Montgomery.  
Ed. L. Mullally.  
M. E. O'Neill.  
Frank Patterson.  
James Pavlica.  
W. E. Pope of Nueces.  
B. E. Quinn.  
R. L. Reader.  
W. E. Reid.  
C. H. Shaver.  
Leonard Tillotson.  
Henry A. Turner.  
Clyde W. Warwick.  
Lawrence Westbrook.  
W. H. Wiggs.

The following is the form of wire sent the above named absentees:

"I am instructed by the House of Representatives to telephone or wire you to be present at 10 o'clock a. m., February 21, 1930, to continue investigation of impeachment charges against State Comptroller, and unless I am advised by you by a reasonable time tonight that you will be present at 10 o'clock tomorrow the Sergeant-at-Arms and Speaker of the House are instructed to wire warrant to the sheriff of your county commanding him to forthwith deliver you to the bar of the House of Representatives at Austin, Texas. Advise me promptly whether or not you will be present or on your way to Austin at 10 o'clock tomorrow.

W. S. BARRON.

The Speaker reached the following members by telephone:

Beck.  
Cox of Limestone.  
Dunlap.  
Finlay.  
Hogg.  
Johnson of Dimmit.  
Kayton.  
Keeton.  
Hardy.  
Kenyon.